

1 THE HONORABLE JOHN C. COUGHENOUR
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 UNITED STATES OF AMERICA,

11 Plaintiff,

v.

12 ANTHONY COLBERT,

13 Defendant.

14 CASE NO. CR12-0237-JCC

ORDER

15 This matter comes before the Court on Defendant Anthony Colbert's ("Colbert") motion
16 for early termination of supervised release (Dkt. No. 1032). Having thoroughly considered the
17 parties' briefing and the relevant record, the Court GRANTS the motion for the reasons
18 explained herein.

19 **I. BACKGROUND**

20 Colbert plead guilty to one count of conspiracy to distribute controlled substances. (Dkt.
21 No. 606 at 1.) In March 2014, the Court sentenced Colbert to 36 months imprisonment, followed
22 by three (3) years of supervised release. (Dkt. Nos. 781, 782.) His supervised released began
23 November 29, 2016. (Dkt. No. 1032 at 1.)

24 Colbert now asks the Court to terminate his supervised release 22 months early. (*Id.* at 2.)
25 Colbert asserts that early termination is appropriate because he has not had any violations while
26 under supervision and he has successfully reintegrated into society. (Dkt. No. 1032 at 2–3.) The

1 Government and Probation object to early termination. (Dkt. No. 1033.) In its opposition brief,
2 the Government points out that Colbert has a significant criminal history, which dates back to the
3 early 1980s. (*Id.* at 1–2.)

4 **II. DISCUSSION**

5 The Court must consider several factors in its evaluation of early termination, including
6 the nature and circumstances of the offense, the history and characteristics of the defendant, the
7 need to deter criminal conduct, the need to protect the public from further crimes, the need to
8 provide the Defendant with correctional treatment in the most effective manner, and the need to
9 avoid disparity among similarly situated defendants. 18 U.S.C. § 3583(e) (citing to factors listed
10 by 18 U.S.C. § 3553(a)). As the Second Circuit has articulated, early termination of supervised
11 release should be granted only “[o]ccasionally” when “changed circumstances—for instance,
12 exceptionally good behavior by the defendant or a downward turn in the defendant’s ability to
13 pay a fine or restitution imposed as conditions of release—will render a previously imposed term
14 or condition of release either too harsh or inappropriately tailored to serve the general
15 punishment goals of section 3553(a).” *United States v. Lussier*, 104 F.3d 32, 36 (2d Cir. 1997);
16 *see also United States v. Miller*, 205 F.3d 1098, 1101 (9th Cir. 2000).

17 The Court considers each of the § 3553(a) factors in light of Colbert’s case. Colbert was
18 involved in a large conspiracy to illegally distribute prescription pain medications. (Dkt. No. 606
19 at 4–5.) In his role, Colbert admitted to distributing 450 Percocet pills with the understanding
20 that the pills would be sold to other individuals. (*Id.* at 5.) While the Court notes that the amount
21 of illegal drugs was high, there do not appear to be any other aggravating factors involved, and
22 Colbert did not commit any acts of violence.

23 As the Government notes, Colbert has a long history of criminal convictions, including
24 several violent crimes. (Dkt. No. 1033 at 1–2.) Colbert’s lengthy criminal history is also well-
25 documented in Probation’s presentence report. (Dkt. No. 769 at 9–12.) The Court balances
26 Colbert’s criminal history against his more recent compliance with probation supervision. Since

1 his indictment in 2012, Colbert has not had a single supervision violation. (Dkt. No. 1032 at 2.)

2 The Court does not perceive a large deterrent effect from requiring Colbert to remain on
3 supervision, as he has already served his prison sentence and spent 14 months on supervised-
4 release without violations. Similarly, the Court does not find that continued supervision would
5 meaningfully protect the public from further crimes. Finally, the Court considers the need for
6 avoiding disparity between similarly situated defendants. Colbert was one of more than two-
7 dozen co-conspirators convicted of related charges. (Dkt. No. 769 at 4–5.) The Court has already
8 ordered supervision be terminated early for three of Colbert’s codefendants (See Dkt. Nos. 927,
9 934, 953, 959.) While Probation supported early termination in those cases, the Court finds that
10 Colbert is similarly situated to those codefendants.¹

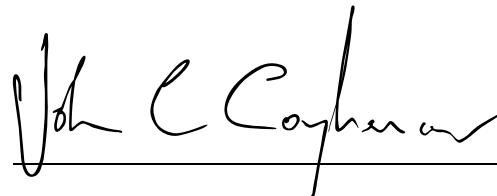
11 In consideration of all the 18 U.S.C. § 3553(a) factors and the interests of justice, the
12 Court finds that it is appropriate to terminate Colbert’s supervision early. The Court gives
13 particular weight to Colbert’s good behavior on supervision, the lack of deterrence from further
14 supervision, and the need to avoid disparity with similarly situated defendants.

15 **III. CONCLUSION**

16 For the foregoing reasons, Colbert’s motion for early termination of his supervised
17 release (Dkt. No. 1032) is GRANTED.

18 DATED this 3rd day of January 2018.

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John C. Coughenour
UNITED STATES DISTRICT JUDGE

1 In opposition, the Government notes that Probation objects to early termination based
on its standing-policy that defendants remain on supervised release for at least 18 months. (Dkt.
No. 1033 at 2.) This seems curious to the Court, as Probation has recommended early
termination for two of Colbert’s codefendants after they both served less than 13 months on
supervision. (See Dkt. Nos. 934, 953.) Colbert has served a similar amount of time.